

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LEXINGTON MSA LIMITED)	
PARTNERSHIP FOR ISSUANCE OF A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY TO CONSTRUCT AN ADDITIONAL)	
CELL SITE IN LEXINGTON, KENTUCKY FOR)	CASE NO. 95-456
THE PROVISION OF DOMESTIC PUBLIC)	
CELLULAR RADIO TELECOMMUNICATIONS)	
SERVICE TO THE PUBLIC IN THE)	
LEXINGTON MSA)	

O R D E R

On November 2, 1995, the Commission received the attached letter from the Lexington-Fayette Urban County Government ("LFUCG") regarding the proposed cellular telecommunications facility to be located on Viley Road off Old Frankfort Pike, Lexington, Fayette County, Kentucky.

IT IS THEREFORE ORDERED that:

1. Lexington MSA Limited Partnership ("Lexington MSA") shall respond to the LFUCG's questions by certified letter, within 10 days of the date of this Order.

2. Lexington MSA shall file a copy of the certified letter and dated receipt, within 7 days of the date on the receipt.

Done at Frankfort, Kentucky, this 14th day of November, 1995.

ATTEST:


Executive Director

PUBLIC SERVICE COMMISSION


For the Commission



Lexington-Fayette Urban County Government

Department of Housing & Community Development • Division of Planning • Planning Services

NOV - 2 1995
PUBLIC SERVICE
COMMISSION

October 31, 1995

Don Mills, Executive Director
Public Service Commission
P.O. Box 615
Frankfort, KY 40602

RE: PSC Case Number 95-456

Dear Mr. Mills:

The Lexington-Fayette Urban County Government (hereinafter referred to as LFUCG) wishes to state its concerns regarding the above-captioned application for a cellular tower and equipment shelter for property located at the end of Enterprise Court in the Enterprise Industrial Park. The information provided to us by Lexington MSA limited partnership is not detailed enough for us to properly determine the potential impact of the tower upon the existing and planned development on this site and the surrounding properties. The LFUCG's Cellular Tower Committee met on Monday, October 30th to review this request. On behalf of the Committee, I specifically request that the following items be provided for our review, or issue otherwise addressed as appropriate:

1. True and Proper Notice - The LFUCG believes that the notice supplied by the applicant in this case is inadequate and misleading in that:
 - a) No street address is provided.
 - b) The location described in the notice letter (copy attached) states the tower is proposed to be located "...on Viley Road off Old Frankfort Pike...", when in fact, it appears that the site is actually to be located at the end of the public street Enterprise Court, off of Enterprise Drive, off of Old Frankfort Pike. The apparent site is approximately one mile from Viley Road via these same streets.

The LFUCG states that it only became aware of the true location of the proposal through conversation with the developer of the industrial park on a matter unrelated to the tower. Field review did indicate a sign posted at the current terminus of Enterprise Court, which we can only assume to be at or near the true location.

2. A copy of the application filed with the PSC: in particular, the nature of the proposed tower (monopole or lattice), and a detailed plan (to scale) showing how the proposed tower would be sited in relation to the planned development

(buildings, parking, etc.) on this property.

This information is needed for any proper review of the impact of this proposal. It appears that the proposed site may be immediately adjacent to, or potentially in the path of, the proposed extension of Enterprise Court into an adjoining property owned by the Hougham family.

The LFUCG specifically requests that the cell tower not be located in the path of the needed roadway extension, and that the tower be sited so that the 60% fall zone not extend to the proposed street.

3. Potential Impact of Proposed Tower on Old Frankfort Pike Scenic Byway - The Old Frankfort Pike is one of Kentucky's designated Scenic Byways. It has also achieved recognition at the national level as a scenic resource. The designation begins approximately 2000' west of the Old Frankfort Pike/Enterprise Drive intersection. There is some question, depending on the exact location, height, and type of tower that this proposal may negatively impact the corridor. The LFUCG's preliminary assessment suggests that the location may not be a problem; however, the LFUCG again points out that the lack of information regarding this request makes final assessment impossible.

The LFUCG requests that the applicant be required to assess the visibility of the tower from the scenic corridor and any negative impacts it may present in that regard.

4. Addition of a condition by the PSC that the tower be removed if it ever ceases to be used as a cellular transmitting facility.

I believe that this restriction may have become a standard PSC requirement - If not, the Lexington-Fayette Urban County Government would request that the PSC impose this restriction, with a surety bond to ensure future compliance.

5. Response Time for LFUCG - In the last request case in Fayette County (95-254), the LFUCG made similar requests within the twenty day initial response period. However, upon receipt of the material, the LFUCG was given less than 10 working days to review, assess, determine whether to intervene, and then comment to the PSC. The LFUCG maintains that it is unreasonable for the PSC to expect that the government will have sufficient time to review materials and explore options or direct discussion with the applicant in such a short time frame. The LFUCG further notes that when virtually no information is initially provided by the applicant, the twenty day period is useless for meaningful review of the proposal. In this case, mere happenstance allowed us to even guess at the location of the proposed tower.


The LFUCG requests that it be permitted a minimum period of 20-30 days to review any materials provided by the applicant pursuant to this request prior to

responding to the PSC or requesting intervention.

The LFUCG will review the requested information in the hope that any concerns can be addressed short of requesting intervention. I am also sending a copy of this letter to Sam McNamara, attorney for Lexington MSA Limited Partnership.

The Lexington-Fayette Urban County Government looks forward to a response from the applicant and/or the Public Service Commission on these requests.

Sincerely,


Christopher D. King
Deputy Planning Manager
Chairman, LFUCG Cellular Tower Committee

c: Mayor Pam Miller
Sam G. McNamara, Attorney for Lexington MSA
Gloria Martin, Councilmember
Bettie Kerr, Historic Preservation
Dean Doerrfeld, Historic Preservation
Ken Kerns, Commissioner of Housing and Community Development

Cellular Tower Committee Members:
Councilmember Fred Brown, Jimmy Campbell, Keith Horn, Terry Tipton,
& Casey Wilson

Sam G. McNamara
ATTORNEY AT LAW
P.O. Box 916
315 High Street
Frankfort, Kentucky 40602
Phone: 502-875-8808
Fax: 502-223-1043

Rec
10/18/95
OK

*Must respond to
PSC by 11/5*

October 18, 1995

Lexington-Fayette County Urban
Planning and Zoning Commission
200 East Main Street
Urban County Government Building - 10th Floor
Lexington, Kentucky 40504

Attention: Mr. Dale Thoma, Director

Re: Public Notice - Public Service Commission of KY
Case No. 95-458

Dear Mr. Thoma:

Lexington MSA Limited Partnership has applied to the Public Service Commission of Kentucky for a Certificate of Public Convenience and Necessity to construct and operate a new facility to provide cellular radio telecommunication service. The facility will include a 190' tower, with attached antennas extending upwards for a total height of 200' feet, and an equipment shelter to be located on Viley Road off of Old Frankfort Pike, Lexington, Kentucky 40510. A map showing the location of the proposed new facility is enclosed. This notice is being sent pursuant to KRS 100.324.

The Commission invites your comments regarding the proposed construction. You also have the right to intervene in this matter. Your initial communication to the Commission must be received by the Commission within twenty (20) days of the date of this letter as shown above.

Your comments and request for intervention should be addressed to: Executive Director's Office, Public Service Commission of Kentucky, Post Office Box 815, Frankfort, Kentucky 40602. Please refer to Case No. 95-458 in your correspondence.

Sincerely,

Sam G. McNamara

Sam G. McNamara
Attorney for Lexington MSA
Limited Partnership

SGM/j

Enclosure

Look Southwest corner 1st

